

## **INQUIRY INTO STUDENTS WITH A DISABILITY OR SPECIAL NEEDS IN NEW SOUTH WALES SCHOOLS**

**Organisation:** NSW Independent Education Union

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The Director  
General Purpose Standing Committee No3  
Legislative Council  
Parliament House  
Macquarie Street  
**SYDNEY NSW 2000**

By email: [gpscno3@parliament.nsw.gov.au](mailto:gpscno3@parliament.nsw.gov.au)

Dear Standing Committee Members

Please find attached the Independent Education Union of Australia (NSW/ACT Branch) submission to the current Inquiry into the Provision of Education to Students with a Disability or Special Needs. (The IEU also contributed to the 2010 Inquiry and participated in a hearing before the Standing Committee.)

While the IEU has sought to address the Inquiry's specific terms of reference, the IEU believes that quality education for students with a disability/special needs is delivered through the key principles of:

- well resourced teaching and support
- appropriate and flexible curriculum
- access to services.

Fundamental to the success of these elements is a comprehensive funding arrangement based on nationally consistent definitions and processes.

This submission has been prepared by IEU Assistant Secretary Pam Smith with input from other Union officers, the IEU Executive and IEU principal, teacher and support staff members. The significant role of the IEUA national office in regard to students with disabilities is also acknowledged, including its 2015 submission to the Senate Education and Employment References Committee.

You are welcome to contact Pam,  
information.

for any further clarification or additional

Yours sincerely

  
**SECRETARY**



# **INDEPENDENT EDUCATION UNION OF AUSTRALIA NSW/ACT Branch**

**SUBMISSION TO THE NSW LEGISLATIVE COUNCIL  
GENERAL PURPOSE STANDING COMMITTEE NO3**

**Inquiry into the Provision of Education to Students with a Disability or  
Special Needs in Government and Non-Government Schools in NSW**

**February 2017**



## 1.0 INTRODUCTION AND CONTEXT

- 1.1 The Independent Education Union of Australia (NSW/ACT Branch) welcomes the opportunity to respond to the NSW Legislative Council General Purpose Standing Committee No3 Inquiry into the Education of Students with a Disability or Special Needs. The IEUA is the federally registered union representing over 75,000 teachers and education support staff in the non-government sector nationally and 32,000 in NSW/ACT.

IEU members include special needs teachers and support staff working as integration aides in mainstream schools, as well as teachers and aides in specialist schools/services for students with disabilities such as Mater Dei, St Gabriel's, St Lucy's, Aspect and the Royal Institute for Deaf and Blind Children. There are also IEU members in support services such as Vision Australia, Guide Dogs and CatholicCare.

This Union also covers teachers employed in early childhood education settings such as long day centres, pre-schools and specialist early intervention services.

Our members also include counsellors working to support student mental health and wellbeing in schools and a range of other services and settings.

- 1.2 The Independent Education Union has a long standing and strong commitment to equity and access for all students with special needs. This Union supports policies and programs which provide effective strategies for enhancing student participation, retention rates and improved learning outcomes for all students. Funding is a key priority and the Union has joined with other stakeholders in supporting the full implementation of the Gonski model for 2017 and 2018. A major national campaign on SWD funding was conducted by the IEUA in 2014 and this remains a high priority for Union engagement.

- 1.3 In the sectors covered by the IEU, in NSW independent schools in 2015 total enrolments were 191,424, representing 16% of all students in NSW. The percentage of primary students in NSW independent schools is 11.6% and secondary students 22.3%. The five year trend data shows that in 2011 there were 177,359 students and the 2015 figure was 191,424.

In 2015 the number of students with a disability in NSW independent schools (according to the 2015 Department of Education and Training Non-Government Schools Census) was 11,563 students, of which 8,219 were enrolled in mainstream schools, 6% of the total enrolments. (This data uses the NSW definition of disability.) The number of students with disabilities according to the Nationally Consistent Collection of Data (NCCD) was 26,257 students or 18% of the total enrolment. (This data uses the National Definition of Disability in the Disability Discrimination Act 1992.)

There are currently 588 NSW Catholic schools which enrol 255,775 students and employ 19,810 teachers, plus 8,305 support staff.

543 of these Catholic schools are operated by Diocesan offices and are responsible for 124,287 primary students and 92,995 secondary students.



46 Catholic schools operate independently or are managed by a religious institute or its agent.

In the NSW Catholic sector, there are currently 12 special/special assistance schools.

There are also 87 ASPECT satellite classes in 40 Catholic schools throughout NSW. Students who attend these classes are enrolled in Autism Spectrum Australia (ASPECT) but located in Catholic mainstream schools through local MOU's.

In 2016 in NSW Catholic schools there were 13,422 (5.2%) recognised Students with Disability according to the NSW State criteria.

In using the Nationally Consistent Collection of Data for Students with Disability (NCCD), the 2016 figures were 44,680 (17.7%) students.

- 1.4 Funding for students with disabilities in the non-government sector comes mainly from the Federal Government but the role of the NSW Government is vital in areas such as definitions of disability, curriculum, and the provision of services through the health and welfare sectors. The NSW Education Standards Authority (replacing BOSTES) mandates provisions in regard to teacher training, accreditation and ongoing professional development requirements for maintenance of teacher accreditation.
- 1.5 Access to funding and services, as well as policies of inclusion and affirmative action to meet the needs of marginalised groups, have been the focus of strong community debate. Recent examples of this debate may be seen in relation to comparisons of schools' NAPLAN literacy and numeracy results, media attention on 'restraint' of students with behavioural challenges and the NSW Ombudsman's current 'Inquiry into Evidence Based Behaviour Management in Government and Non Government Schools'.
- 1.6 For the preparation of this submission, the Union has consulted with members working with students with special needs, with the IEU Education Issues Committee, the IEU Executive and with the Union's Principals' Branch. The response from members to this issue has been significant and reflects the level of pressure at the school and classroom level experienced by principals, teachers and support staff in relation to resource allocation, access to support services and increasing workloads.
- 1.7 In responding to this Inquiry, the IEU has concentrated on how funding, policies and services for the education of students with disabilities impact on the capacity for systems, schools, teachers and support staff to deliver quality teaching which meets the needs of such students and achieves learning outcomes. This is important not just for primary and secondary schools but also for the early childhood sector, where resourcing effective early intervention programs can make a significant difference in the later educational outcomes for students with disabilities or special needs.



With regard to the early childhood education sector, it is noted with regret that NSW has the lowest annual outlay of any of the States of \$202 per child. Childcare and preschool fees in NSW are also the highest in Australia which has implications for children accessing crucial early intervention support.

In the early childhood sector, NSW funding for children with disabilities to participate in early learning is covered by two different schemes:

a) Preschools – Preschool Disability Support Program (NSW Government funded)

\$45 per day Level 1  
\$90 per day Level 2  
\$120 per day Level 3

Universal Disability Loading is \$60 metropolitan or \$75 rural and remote per eligible child per year.

In the words of one of the IEU's early childhood sector specialists "In 2015, IEU early childhood sector members complained that the funding can take months to come through and they have to fight to have this backdated. Cut-off dates for funding mean some children miss out and have to wait for the next cut-off (I think these dates occur twice per year). It is very difficult to qualify for Level 3 and the children who do need 1:1 support (such as not toilet trained/can't feed self/violent or display aggressive behaviour/autism etc). In addition, if they need 1:1 support, \$120 does not pay for a full day's pay for even a Certificate III employee, let alone a teacher. Some children are declined and others are classified at a lower level than the pre school believes they should be. Still others were classified as level 3 but then downgraded to level 1 or 2 even though they have the same disability they had when originally classified as level 3, one centre's funding of \$11,000 was paid to the wrong preschool (who can't afford to pay it back)."

b) Long Day Care – Inclusion Support Program (Federal Government funded)

Again, as indicated by an IEU early childhood sector member "Maximum funding is \$23 per hour x 25 hours per week (previously this was a maximum of 5 hours per day) – uncertainty if there can be a claim for more each day but as children may attend 8-10 hours per day there may be a shortfall. If the child attends 8 hours per day x 5 days, there is a 15 hour shortfall."

Issues in relation to students' mental health and wellbeing are also vital and IEU members are concerned about access to services and support, especially in rural and regional areas. There are also major concerns on behalf of students with significant medical issues such as serious allergies/anaphylaxis. (It has been reported that hospitalisations for allergies have tripled since 2002 and that families can wait for six months or more for an appointment with an allergy specialist.)



## 2.0 EXECUTIVE SUMMARY

- 2.1 For the past two decades or more, including since the previous NSW Legislative Council Inquiry in 2010, the community has debated issues related to services and funding for disadvantaged groups. Policies of inclusion and affirmative action and the use of funds to meet special needs have been the subject of policy debate, research and legislation. The IEU has been a stakeholder in these debates and has voiced a strong commitment to equity and access strategies for all students, including students with disabilities, and has supported policies and resourcing to enhance participation, retention rates and improved learning outcomes for all students.
- 2.2 Since the 2010 Inquiry, the introduction of the National Disability Insurance Scheme, and its interaction with the provision of services to students in schools, has also become a factor for consideration, as has of course Gonski and the ongoing funding debate.

In 2017 the report of the Education Council on “Improving Educational Outcomes: Emergent data on students with disabilities in Australian schools” outlined the development of a nationally consistent dataset about students with a disability and the Productivity Commission released its own report on government services for students with special needs. While there is some ongoing debate about the Nationally Consistent Collection of Data (NCCD) figures which show 18 per cent of Australian students have some form of disability, the clear message from these 2017 reports is that there are major shortfalls in funding and support.

Part of the context since 2010 has also been the 2015 review of the National Disability Standards for Education and the 2016 report of the Senate Standing Committee on Education and Employment. This report found that “Disability is one of the major barriers to accessing education in Australia. This access can be further complicated by other factors such as socio economic status, geographic location and Aboriginal and Torres Strait Islander background.”

- 2.3 Anti-discrimination legislation, both federal and state, as well as the UN Declaration on the Rights of Persons with Disabilities, requires that children and students with disabilities will not be discriminated against in their access to educational services and their rights to expect education outcomes in the same range as those achieved by other students.

Input from IEU members, however, reflects their real concern at not always being able to meet these obligations. The consistent and strong feedback from IEU members (principals, teachers and support staff) is that the resources and funding arrangements for students with disabilities in non-government schools are not adequate and that schools can therefore be vulnerable to being in breach of legislation, as well as their own commitment to high professional standards. As previously noted, there has been disappointment in the lack of Federal Government commitment to full Gonski funding.

Past and current initiatives involving the Federal and NSW Governments, including National Partnerships, national approaches to curriculum and assessment, and the teacher accreditation agenda have provided significant challenges and opportunities to ensure that the needs of students with disabilities/special needs are recognised and addressed.



Similarly, while the IEU welcomes commitments by the Federal and NSW Governments in relation to early childhood education, there is a need for a co-ordinated approach to funding and supporting students with disabilities/special needs in early childhood, K-12 and into post-school education and training. As IEU members often tell the Union, children's needs should be met irrespective of state/territory, sector, system or school. (In the words of Gonski, a 'sector blind' approach.)

### 3.0 TERMS OF REFERENCE

#### 3.1 Equitable Access to Resources for Students with a Disability or Special Needs in Regional and Metropolitan Areas

It is clear from the advice of non-government employment authorities and IEU members, that in comparison to the funding of government schools, there is a considerable shortfall in the funding of non-government schools for students with disabilities from Federal and State government sources in recurrent and capital funding and in the provision of government services such as assessment and therapy. This causes hardship for the families of these students and for the teachers and support staff charged with the responsibility of providing quality education to meet their learning needs.

For example, while acknowledging its support for funding of students with disability under the Australian Education Act, the National Catholic Education Commission (NCE) indicates the Catholic system is faced with a financial shortfall to provide opportunities for students with disability. (National Catholic Education Commission. *Facts needed on funding for students with disability* media release 5 February 2015.)

A national parent survey conducted by Children with Disability Australia (CDA) in April 2015 found that 68% of parents believed their children (with disability) were not receiving adequate support at school, one in four children with a disability had been refused enrolment at one time and a further 17% of students with a disability had only been offered part time enrolment. Thirty nine per cent of parents said that their child with a disability was regularly excluded from school activities such as excursions, the playground during breaks, sporting and cultural events, because the school did not have adequate resources. (Children with Disability Australia, *National survey reveals one in four students with disability refused school enrolment*, Media release 15 May 2015.

The CDA survey also showed that over two thirds of parents of students with a disability felt that their child was not receiving enough support at school.

Despite the efforts towards a Nationally Consistent Collection of Data on School Students with a Disability (NCCD), disability is defined differently across all States and Territories for the purposes of determining access to Commonwealth funding. The consequences of this are that students with learning disabilities usually do not fall within the eligibility criteria for funding, nor necessarily do students with a range of other social, emotional, behaviour or other disorders which can impact significantly on students' learning. (Media attention on the NCCD was evident in the Sydney Morning Herald article of December 2016, entitled "Disabled Children could be Denied Funding after Audit".)



Integration programs place high demands on education staff and there can be a tension in balancing the needs of integrated students with the needs of the whole class if appropriate levels of support are not in place. To ensure that schools have the capacity to meet the educational needs of all students, it is necessary for agreed resourcing standards to be in place on issues such as class sizes, specialist teaching staff, appropriate and relevant professional development etc.

### 3.2 Equitable Access Issues in Regional/Remote Areas

There are obviously more disability services located in metropolitan areas than in regional or rural areas. Rural areas fare the worst, with many families having to travel hundreds of kilometres to access specialist services such as psychologists, paediatricians, speech pathologists and occupational therapists who have experience working with children with disabilities. This is a significant frustration for the principals, teachers and aides who work with these children and their families.

In particular, there are issues around inadequate funding for the NSW public health system evidenced by long waiting lists.

As an example, it has been reported that in the Illawarra area families have to wait several months to see private specialists locally for appointments, sometimes for diagnosis or follow up care. "Kids Cottage and services that are 'free' have long waiting lists usually around six months".

In 2017, it was reported in the media that waiting times for assessments (often needed for funding and support purposes) for students in south western Sydney were often double that of students in Sydney's eastern suburbs.

In the words of an IEU specialist teacher member, "there is a shortage of qualified therapists and specialists in rural areas, but little incentive for them to work there. There are problems of recruitment and retention".

#### 3.2.1 Access to support for students with mental health issues is a particular concern for many IEU members and there are specific frustrations in rural and regional areas.

One Catholic systemic sector primary school principal in a small rural community told the IEU that there was a problem in accessing counselling services for students and their families. "Our Diocese uses CatholicCare but there can be a high turnover of counsellors and sometimes there is a significant gap in accessing the services of a counsellor. When a new counsellor is appointed, time is needed for relationships to be established and students and families can suffer. At one stage, there was no counsellor coming to my school for over three months. Lack of access to counselling at school level is exacerbated by limited community mental health resources, with long waiting lists for psychologists and psychiatrists and some families can't afford to see private specialists."

Another country principal indicated "In my school community there are parents with substance abuse issues and domestic/family violence, as well as depression which can affect rural families because of drought or economic factors. These family issues impact on our students and we need more school counselling support and community mental health resources."



In outer metropolitan Sydney, a teacher in an Islamic school told the IEU that there was a need for enhanced counselling/pastoral support for migrant and refugee families, some of whom have fled persecution in their homelands and experienced a traumatic journey to settle in Australia.

### 3.3 'Every Student, Every School' Policy – Impact

While the IEU covers the non government education sector, our members have significant contact with government schools and services. These are some of their comments:

"I currently work on the site of a public school and their staffing levels are lower than ours at Aspect. I have witnessed an increase in the number of specialised units for students with special needs over the past few years within our. In my work as an outreach teacher, I have visited and worked with many of the staff within these units. While some are run very well, many have inadequately trained staff and are not always teaching 'best practice strategies' for students in their care. This is a professional development and resourcing issue."

"More funding needs to be put into specialised training for all teachers and teacher aides who work with students with SWD in public schools."

"Many students who do not have a diagnosed disability or have emotional and social issues or are just above meeting the criteria for funding, are falling through cracks. Students with Aspergers, often undiagnosed, are especially at risk. They have higher rates of depression and anxiety than other students with a disability. Their needs are not always being met in a mainstream setting and they have increased risk of non school attendance while depression peaks during adolescence."

"Our two local specialist schools are full to capacity but there is a need to place some of our most vulnerable students into these highly supported setting. New schools need to be built or existing ones expanded."

"We receive ADHC funding which is due to run out mid 2017. This will impact our current staffing levels and we will lose a number of teacher aide positions. The current structure of the Gonski funding for 2017 and 2018 is not yet clear enough for us to say that it fills this gap. Student with Autism Spectrum require a high level of staffing to meet their complex needs."

"When we transition our students with autism to mainstream schools, they receive very limited support of two hours a week. This is nowhere near enough to support their needs in this setting."

"Mainstream schools require explicit training in teaching students with special needs within the classroom. Currently DEC and CEO do this in different ways, however there are many teachers who have little or no training in meeting the needs of these students within their classes."

"More funding needs to be allocated to training teachers and school staff to manage students with disabilities as well as any student with complex needs."



“In some other school systems, there is a teacher aide working with every class teacher (such as in some European countries). Imagine how great that would be to assist the cohort of students requiring extra help within the class, not to mention the reduction in stress levels and workload for the class teacher!”

#### 3.4 Developments Since the 2010 Inquiry

Although there is rhetoric and promises around SWD, for many IEU members this does not appear to have translated into practical outcomes within the large school systems.

Most of the points previously noted highlight this issue. Without adequate funding, supporting students with disabilities is not being fully addressed.

The need is greater than ever but the funding does not match the current numbers of students with SWD compared to a few years ago.

In the IEUA’s 2015 submission to the Senate Education and Employment References Committee, it was stated that “schools are being starved of adequate funding to meet the needs of students with a disability and are only getting by through the goodwill of teachers and schools making an extraordinary effort to provide a quality education to all of their students. Further, funding inadequacies are a major barrier to the provision of essential resources, individual support and access to professional expertise, which are essential components in the provision of quality education to students with a disability.”

In a report on 16 February this year, the ABC reported that “Students with a disability face an enormous funding gap in Australian schools, new figures from the Productivity Commission and the Education Council appear to show. Last December, the Education Council released its Nationally Consistent Collection of Data (NCCD) for school students with disability for the first time, with responses from 100 per cent of schools. When compared to the Productivity Commission’s figures, it appears to show more than 268,000 students with a disability are in school without funding support to assist in their education.”

#### 3.5 Complaints and Review Mechanisms within School Systems etc

As per NSW school registration requirements, non government systems and schools must have policies and practices in place to address student and parental concerns. The IEU welcomes opportunities to provide input, from our members’ perspective into the development and review of such policies and seeks the inclusion of these issues on the agenda for meetings with employers.

It was noted in 2015 by the NSW Court of Appeal in the case of *Oyston v St Patrick’s College* that complaints type policies (anti bullying policies in that instance) must not only exist but be followed. Such policies should be clear for students, parents/caregivers and for staff and have in place effective pathways when a complaint is received and for the management and resolution of disputes.

There has been an enhanced focus in professional development programs on awareness of Disability Discrimination legislation and the Disability Standards in regard to requirements of systems at school levels.



### 3.6 Other Related Matters

As previously noted, the IEU believes that quality education for students with a disability is delivered through a well resourced key interconnecting set of principles:

- Quality teaching and support
- Appropriate and flexible curriculum;
- Access to services.

Fundamental to the success of these elements must be a comprehensive funding arrangement based on nationally consistent definitions, arrangements and processes.

With regard to quality teaching and support, a key factor to providing quality, inclusive education for students with disability is school staffing. The IEU believes that the professionalism of teachers, learning support staff and other school support staff must be properly recognised.

Employment of specialist staff at a system and/or school level must be in addition to normal staff allocations and be sufficient to address the diverse needs of students.

Concerns have been raised by some IEU members that a 'diversity is the norm' model, while focusing on integration, can result in diminished specialist services and support and increasing workload on classroom teachers.

The role of the integration aide in supporting students with disability is vital to their successful inclusion. Yet, too often, aides are not appropriately recognised in the provision of quality support to students. Integration aides are often employed on fixed term contracts due to funding limitations and can be overlooked in school professional development plans. The IEU believes continuity of employment must be provided to integration aides to ensure continuity of professional support. Students with a disability should have access to an integration aide with appropriate expertise in the area of disability in learning contexts.

There is a need for enhanced access to ongoing professional development for teachers, support staff and integration aides. The IEU believes professional development for teachers and aides should be recognised and funded as an integral requirement to the teaching and learning needs of students with disability.

Professional development should be based on a combination of the school's development plan, an assessment of the needs of the students and the professional needs determined by the individual teachers and aides.

The IEU believes time must be provided for teachers, support staff and aides to work together on curriculum planning and modification and to liaise with external agencies and parents when teaching students with a disability.

Class sizes should be adjusted where students with a disability are in a class to ensure equitable levels of educational provision are available to all students in the class.



Transition points such as from early learning centres to Kindergarten, from primary to secondary schooling, and from secondary schooling to further study, may be vulnerable for students with special needs and require additional intervention and support.

#### **4.0 SOME ADDITIONAL COMMENTS**

IEU members consulted for this Inquiry emphasise that it is important to understand that the reasons for disabilities and special needs are varied and the type of disabilities quite diverse. Beyond the statistical estimate of the proportion of the population who can be identified with exceptional special needs or disabilities, other significant factors are also relevant. Issues include violent family relationships; children suffering from neglect, including nutritional and emotional neglect; parental substance abuse (which can result in foetal alcohol syndrome which is a serious and whole of life concern); refugee families and children with post-traumatic stress; families new to Australia struggling with poor support systems, limited English and few resources; and children who have survived very premature births because of advances in medical technology. There are also particular challenges for Aboriginal and Torres Strait Islander children and their families. Some of these situations give children temporary and remediable learning challenges, but if they are not addressed adequately they can become long-term disabilities resulting in poorer life options.

As the UN Declaration on the Rights of Persons with Disabilities states: “Countries are to guarantee that persons with disabilities enjoy their inherent right to life on an equal basis with others and protect children with disabilities. States are to ensure equal access to primary and secondary education, vocational training, adult education and lifelong learning. Education is to employ the appropriate materials, techniques and forms of communication. Education of persons with disabilities must foster their participation in society, their sense of dignity and self worth and the development of their personality, abilities and creativity.”

These are vital human rights and the IEU looks forward to their achievement for the students of NSW, irrespective of the school sector in which they are enrolled.